THE BANKING SERVICES ACT

The Banking Services (Deposit Taking Institutions) (Capital Adequacy) Regulations, 2015

In exercise of the power conferred upon the Supervisory Committee by section 131(1) (c) of the *Banking Services Act*, the following Regulations are hereby made, with the approval of the Minister:–

PART I. *Preliminary*

1. These Regulations may be cited as the Banking Services (Deposit Taking Institutions) (Capital Adequacy) Regulations, 2015.

2. – (1) In these Regulations –

"capital base" has the meaning assigned to it in the *Banking Services Act*;

"capital share" has the meaning assigned to it in the *Banking Services Act*;

"deferred share" has the meaning assigned to it in the *Banking Services Act*;

"deposit taking institution" has the meaning assigned to it in the *Banking Services Act*;

"entity" includes a trust, partnership, pension or other fund or an unincorporated association or organization;

"general provisions for loss" means all the accumulated provisions for loss which are prudential in nature and cannot be determined on an item-by-item basis and are established in accordance with regulations or the Supervisory Rules, made under the Act relating to credit classification, provisioning and non-accrual requirements;

"ordinary shares" means that class of shares in the capital of a deposit taking institution which are non-redeemable and are unsecured in which the rights of the holders thereof are equal in all respects, including the right to -

(a) vote at all meetings of shareholders except where only shareholders of a specified class of shares are entitled to vote;

(b) receive dividends declared on those shares; and

(c) receive the remaining property of the deposit taking institution on liquidation;

"preference shares" means shares in the capital of a deposit taking institution other than ordinary or capital shares which -

(a) are preferred in matters relating to -

(i) the distribution of profits; and

(ii) payment of dividends; and

(b) rank with respect to capital, in winding up proceedings and in such other matters and respects as the by-laws creating each such class of shares may provide;

"prescribed deductions" means the aggregate of -

(a) the deposit taking institution's equity investments in unconsolidated subsidiaries;

(b) the deposit taking institution's substantial investment, whether held directly or indirectly, in any other unconsolidated entities or companies;

(c) the deposit taking institution's proportionate share of the amount of accumulated losses of any unconsolidated subsidiary or any other unconsolidated entity or company in which it has a substantial investment;

(d) other facilities provided by the deposit taking institution that are treated as capital by unconsolidated subsidiaries and by any other unconsolidated entities or companies in which it has a substantial investment;

(e) new and existing capital issues between the deposit taking institution and one or more other deposit taking institutions that represent, either directly or indirectly, back-to-back placements;

(f) any other deduction designated by the Supervisor under the Act;

"regulatory capital" has the meaning assigned to it in the *Banking Services Act*;

"specific provisions for loss" means all the accumulated provision for loss on particular assets which are required to reduce the book values to realizable values in accordance with regulations, or the Supervisory Rules, made under the Act relating to the classification and provisioning for losses on credit facilities;

"subordinated debt" has the meaning assigned to it in the *Banking Services Act*;

"substantial investment" means -

(a) a deposit taking institution's investment in another company, which on its own or together with that of any connected person, amounts to twenty per cent or more of the voting rights or of total shareholder's equity;

(b) in the case of a deposit taking institution's investment in an entity other than a company, the aggregate of the deposit taking institution's ownership interests in the entity, however designated, whether held by the deposit taking institution solely or together with any connected person or any entity controlled by the deposit taking institution which represents twenty per cent or more of all of the ownership interests into which the entity is divided;

"Tier 1 capital" has the meaning assigned to it in the *Banking Services Act*;

"Tier 2 capital" has the meaning assigned to it in the *Banking Services Act*.

(2) References in these Regulations to funds managed by a deposit taking institution are references to monies received by the deposit taking institution from clients for investment with written instructions as to the manner of investment, whether on a discretionary or non-discretionary basis, and which funds are subject to, the Standards of Sound Practice issued by the Supervisory Committee or, regulations made under the Act.

PART II. *Primary Ratio Requirements*

3. A deposit taking institution shall maintain on a daily basis, the ratio between its capital base and the total of its assets, at no less than six per cent or such other percentage as the Supervisory Committee may specify by notice published in the *Gazette*.

PART III. *Regulatory Capital Requirements*

4. – (1) A deposit taking institution's regulatory capital shall be measured by reference to the aggregate of its Tier 1 and Tier 2 capital, less prescribed deductions.

(2) In the calculation of Tier 2 capital, the value of term preference shares with an original term maturity of five years or more shall be determined in accordance with the provisions of Schedule 6.

(3) Where any new shares are issued by a deposit taking institution after the coming into force of these Regulations, the deposit taking institution shall notify the Supervisor in writing of the issue –

(a) within 21 days of the date of the resolution authorizing the share issue, or within such other period as may be agreed by the Supervisor; and

(b) setting out full details of the issue, including the terms and conditions thereof and the classes of shares to be affected thereby.

(4) The Supervisor may, in relation to a deposit taking institution, take the action outlined in paragraph 5 of the First Schedule of the *Banking Services Act.*

(5) Irrespective of the standard risk-weight applying to any category of assets, the Supervisor may determine that a higher or lower risk-weight should be assigned to a particular asset, where justified by the risk profile of that asset.

5. Every deposit taking institution shall maintain regulatory capital comprising not less than fifty per cent Tier 1 capital or such other percentage as the Supervisory Committee may prescribe, by notice published in the *Gazette.*

PART IV. *Capital Adequacy Ratio Requirements*

6. - (1) Subject to paragraphs (2) and (3), a deposit taking institution shall maintain on a daily basis, the ratio between its regulatory capital (the numerator) and the aggregate of its risk weighted on-balance sheet assets, off-balance sheet items and balances related to funds managed by the deposit taking institution, and foreign exchange risk exposure (the denominator) at no less than ten per cent or such other percentage as the Supervisory Committee may prescribe, by notice published in the *Gazette.*

(2) Notwithstanding paragraph (1), each deposit taking institution shall -

(a) maintain capital ratios well above the regulatory minimum levels and hold sufficient capital, to cover its material risk exposures with a sufficiently adequate buffer, commensurate with the level and nature of risks to which it is exposed; and

(b) have in place an appropriate strategy for maintaining adequate levels of capital to mitigate risk of financial loss under varying conditions.

(3) The Supervisor may, by notice in writing to a deposit taking institution, direct the deposit taking institution to vary the ratio between its regulatory capital and the denominator to a level which is more consistent with that deposit taking institution's risk profile as assessed by the Supervisor.

7. - (1) Every deposit taking institution shall have in place adequate systems and procedures satisfactory to the Supervisor to compute the capital adequacy ratio.

(2) In determining the adequacy of the systems and procedures, the Supervisor shall have regard to international standards of sound practice, and the Supervisory Rules, issued under the Act, and the deposit taking institution's risk profile and adequacy of resources.

8. - (1) Every deposit taking institution shall provide the Supervisor with computations of capital adequacy requirements in the format and frequency prescribed by the Supervisor.

(2) The deposit taking institution shall calculate its capital adequacy ratio -

(a) with regard to its on-balance sheet assets, in accordance with the provisions of Schedule 1;

(b) with regard to off-balance sheet assets and funds managed by the deposit taking institution in accordance with the provisions of Schedule 2.

(3) Subject to regulation 4(5), the respective standard risk-weights to be applied to a deposit taking institution's on-balance sheet assets shall

be those specified in Schedule 3.

(4) The credit conversion factors to be applied to a deposit taking institution's off-balance sheet assets shall be those specified in Schedule 4.

(5) In making the calculations specified in this regulation and regulation 6, each deposit taking institution shall calculate, in accordance with the provisions of Schedule 5, the foreign exchange risk exposure attaching to all on and off-balance sheet assets denominated in foreign currency.

(6) Every deposit taking institution shall submit the calculations required under this Part in such form as the Supervisor may specify, as at the last day of each calendar month or such other date as the Supervisor may specify, however, the calculations shall be submitted to the Supervisor within twelve working days thereafter.

PART V. *Transitional and Repeal*

9. – (1) A deposit taking institution which, at the date of the coming into effect of these Regulations, does not meet at least the primary ratio and capital adequacy ratio requirements shall, within one month of that date, provide a plan acceptable to the Supervisor for the timely achievement of the capital adequacy ratio.

(2) The deposit taking institution shall achieve compliance in any event not later than six months after the coming into operation of these Regulations.

10. The Banking (Capital Adequacy) Regulations, 2004 and the Financial Institutions (Capital Adequacy) Regulations, 2004, are repealed.

SCHEDULE 1 (Regulation 8(2))

Capital Adequacy Ratio Calculations
– On Balance Sheet Assets

1. The on-balance sheet assets of a deposit taking institution shall be

classified in one of four broad risk-weighting categories, namely, zero per cent (0%); twenty per cent (20%); fifty per cent (50%) and one hundred per cent (100%).

2. Classification shall be dependent on the Supervisors assessment of- (a) the nature of the counter-party; or (b) where applicable, the guarantor or the collateral.

3. Amounts classified in each category shall be multiplied by the applicable risk-weighting, with the resulting weighted values added together to arrive at total risk-weighted assets.

4. The amount of the deposit taking institution's assets deducted in computing its capital base (such as goodwill, investments in unconsolidated subsidiaries, or back-to-back securities) shall be risk-weighted at zero per cent (0%).

5. Asset balances subject to risk-weighting must be reported net of specific provisions for loss.

6. Recognition of collateral in reducing the credit risk of claims shall be limited to cash (in which the deposit taking institution has a secured interest) or securities issued by -

(a) the Government of Jamaica;
(b) the Government of the United States, Canada or the United Kingdom;
(c) Central banks and other public sector entities of the G10 and CARICOM countries and specified multilateral development banks or lending agencies,

and denominated in the issuer's national currency, as approved by the Supervisor. That portion of a claim that is covered by such approved collateral will be assigned the risk-weight given to the collateral (namely, 0% to 20%).

7. Loans or other exposures unconditionally guaranteed by -

(a) the Government of Jamaica;
(b) the Government of the United States, Canada or the United Kingdom;
(c) Central banks and other public sector entities of the G-10 and CARICOM countries;
(d) approved multilateral development banks, or lending agencies; and
(e) a bank or supervised deposit taking institution incorporated in a G-10 or CARICOM country approved by the Supervisor,

shall attract the weight assigned to a direct claim on the guarantor.

SCHEDULE 2 (Regulation 8(2))

Capital Adequacy Ratio Calculations – Off Balance Sheet Assets

1. With the exception of commitments which are unconditionally cancellable by the deposit taking institution, all off balance sheet items shall be assigned a 100% credit conversion factor to determine an on-balance sheet credit equivalent amount. The on-balance sheet equivalent amount is calculated by multiplying the respective off-balance sheet item by the relevant credit conversion factor.

2. The credit equivalent amount will then be treated as an on-balance sheet item and assigned a risk-weight appropriate to the counter-party or, if relevant, the weight assigned to the guarantor or the nature of the

collateral.

3. At any time when funds are managed by the deposit taking institution, capital adequacy requirements shall apply to such funds, in recognition of the risks (reputational, contagion and others) which accrue to the deposit taking institution as a result of involvement in this area of business.

4. Where funds are managed by the deposit taking institution on a specifically non-discretionary basis, no capital adequacy requirements will apply.

5. Where funds are managed by the deposit taking institution on a discretionary basis, such portfolios shall be assigned a conversion factor of 25% to determine an on-balance sheet equivalent for the purposes of assigning risk-weights.

6. The on-balance sheet equivalents will then be assigned a risk-weight appropriate to the counter-party or the nature of the collateral as specified under Schedule I.

7. These Regulations shall not be deemed to grant to a deposit taking institution any power or right regarding the management or investment of customers' funds which is inconsistent with the provisions of any regulations under the Bank of Jamaica Act or Standards of Sound Practices issued by the Supervisory Committee on the investment of customer's funds.

SCHEDULE 3 (Regulation 8(3))

On Balance Sheet Assets – Risk Weight Categories

1. **0% Risk-Weight**

   1. Cash (denominated in domestic and foreign currency) on hand.
   2. Deposits with and other claims on the Bank of Jamaica, including cash reserves (domestic and foreign currency) and current account balances.
   3. Government of Jamaica debt securities denominated in Jamaican currency.
   4. Loans granted to, or which are guaranteed by, the Government of Jamaica and denominated in Jamaican currency.
   5. Debt securities which are issued by statutory bodies or companies owned or controlled by the Government of Jamaica, or an agency of the Government of Jamaica, and are also guaranteed by the Government of Jamaica, and which debt securities are denominated in Jamaican currency.
   6. Debt securities issued by the United States of America, Canada or the United Kingdom and other governments and central banks of the G - 10 countries approved by the Supervisor from time to time, and denominated in the issuer's national currency and funded in that currency.
   7. Debt securities issued by public sector entities or agencies of the governments of the United States of America, Canada or the United Kingdom and other governments of G - 10 and CARICOM countries as approved by the Supervisor from time to time, that carry the full guarantee of the respective governments.

8. Debt securities issued by CARICOM country governments and central banks as approved by the Supervisor from time to time, and denominated in the issuer's national currency and funded in that currency.

9. Claims fully secured by cash.

10. Claims fully secured by Government of Jamaica securities denominated in Jamaican currency.

2. **20% Risk-weight**

1. Claims on deposit taking institutions and on institutions specified under the Bank of Jamaica Act. Such claims (other than capital instruments) shall include deposits, loans, cheques and other items in transit, and loans guaranteed by such institutions;

2. Claims (other than capital instruments) with residual maturity of less than twelve months on deposit taking institutions incorporated in and supervised by the appropriate banking supervisory or monetary authority of the United States, Canada, United Kingdom or CARICOM country, as approved by the Supervisor from time to time; or

3. Claims (other than capital instruments) with residual maturity of less than twelve months on deposit taking institutions incorporated in and supervised by the appropriate banking supervisory or monetary authority of any other country as approved by the Supervisor from time to time.

4. Debt securities issued by public sector entities or agencies of the Governments of the United States of America, Canada or the United Kingdom and other governments of the G - 10 and CARICOM countries as approved by the Supervisor from time to time, which are denominated in the issuer's national currency, and that are not guaranteed by their respective governments.

5. Claims on, including claims guaranteed or collateralized by, securities issued by, other governments, central banks and multilateral development banks or lending agencies as approved by the Supervisor from time to time and denominated in the issuer's national currency.

3. **50% Risk-Weight**

First legal mortgages to owner-occupiers fully secured on their residences (except for those where the arrears on the mortgages exceed three (3) months, in months, in which case, the mortgage is assigned a 100% risk-weight).

4. **100% Risk-Weight**

1. Other claims, loans and mortgages not otherwise classified in this Schedule.

2. Holding of ordinary and preference shares.

3. Other securities not otherwise classified in this Schedule.

4. Fixed assets, including land, buildings and equipment net of

depreciation, used or held, or both by the deposit taking institution in the conduct of its business;

5. Government of Jamaica debt securities denominated in foreign currency.
6. Debt securities denominated in foreign currency that are issued by statutory bodies or companies owned or controlled by the Government of Jamaica or an agency of the Government and are also guaranteed by the Government.
7. Debt securities issued by foreign governments, and by central banks or monetary authorities of other jurisdictions and denominated in a currency other than the issuer's national currency.
8. Debt securities denominated in foreign currency which are issued by foreign public sector entities or agencies from time to time, that are not guaranteed by their respective governments.
9. All other assets.

SCHEDULE 4 (Regulation 8(4))

Credit Conversion Factors for Off-Balance Sheet Assets

0% Conversion Factor

Commitments that are unconditionally cancellable by the deposit taking institution at any time without prior notice.

100% Conversion Factor

1. Guarantees given on behalf of customers to stand behind the financial obligations of the customer and to satisfy those obligations should the customer fail to do so.
2. Standby letters of credit or other equivalent irrevocable obligations serving as financial guarantees, such as letters of credit supporting the issue of commercial paper.
3. Participation in bankers' acceptances and participation in financial letters of credit. Participations constitute guarantees by the participating deposit taking institution such that if there is a default by the underlying obligor, they will indemnify the selling entity for the full principal and interest attributable to them.
4. Securities lending transactions where the lending entity is liable to its customer for any failure to recover the securities lent.
5. Contractual obligations to purchase assets, including financing facilities with certain draw-down.
6. Transaction related contingencies (such as bid bonds, performance

bonds, warranties, and standby letters of credit related to a particular transaction).

7. Commitments including underwriting commitments and commercial credit lines.

8. Note Issuance or Revolving Underwriting Facilities whereby a borrower may issue short-term notes, typically three to six months in maturity, up to a prescribed limit over an extended period of time, commonly by means of repeated offerings to a tender panel. If at any time the notes are not sold by the tender at an acceptable price, an underwriter (or group of underwriters) undertakes to buy them at a prescribed price.

9. Trade related contingencies (e.g. short-term, self-liquidating trade related items, such as commercial and documentary letters of credit issued by the bank that are, or are to be, collateralized by the underlying shipment).

10. All other commitments other than those to which a 0% conversion factor has been designated under these Regulations.

SCHEDULE 5 **(Regulation 8(5))**

Foreign Exchange Risk

1. Two processes are needed to calculate the capital requirement for foreign exchange risk as follows -

(a) the measurement of the deposit taking institution's exposure or its net open position in a single currency; and

(b) the measurement of the risks inherent in the deposit taking institution's mix of long and short positions in different currencies.

2. The deposit taking institution's exposure in a single currency or its net open position in a single currency shall be the aggregate of -

(a) the net spot position (namely, all asset items less all liability items, including accrued interest, denominated in the currency in question);

(b) the net forward position (namely, all amounts to be received less all amounts to be paid under forward foreign exchange transactions);

(c) guarantees (and similar transactions) that are certain to be called and are likely to be irrecoverable;

(d) any other item representing a profit or loss (such as accrued interest or expense) in foreign currencies.

3. To measure the exposure in the mix of long and short positions, the nominal amount (or net present value) of the net position in each foreign currency is converted at spot rates into Jamaican dollars. The overall net

open position is measured by aggregating separately the individual net short positions and the individual net long positions. The greater of the two sums represents the overall foreign exchange risk position which is to be included in the denominator of the capital adequacy ratio.

SCHEDULE 6 (Regulation 4 (2))

Tier 2 Capital Calculations-Determination of Capital Value of Term Preference Shares with an Original Term to Maturity of Five Years or More

Remaining term to maturity	**% of value for inclusion in Tier 2 capital**
5 years or more	100%
4 years or more and less than 5 years	80%
3 years or more and less than 4 years	60%
2 years or more and less than 3 years	40%
1 year or more and less than 2 years	20%
Less than 1 year	0%

Date this 21 day of July , 2015.

Chairman
Supervisory Committee

Approved:

Minister of Finance and Planning